

pointed out, marked a step forward especially in the notion of the use of force from the traditional concept of peace-keeping force. In his country's view, the time-tested principles concerning peace-keeping operations should be respected, limiting the use of force to self-defence purposes. He mentioned Cambodia as a good example in the recent times and the contribution made by Japan in this regard. He was agreeable to an exception in certain situations in which case these concepts elicited some validity; for example, where the authority of the Central Government was completely destroyed.

The delegate of *Myanmar* recalled his country's long-standing association with the AALCC. He emphasized the AALCC's role in the area of international law and stressed that AALCC needed to be selective in its focus in a way which serve the common interest of the region.

The delegate of *Kenya* briefly touched upon the orientation of AALCC programmes and its ability to serve the Member States. He also laid emphasis on the need to conduct extensive training programmes by the AALCC so as to maintain its high degree of profile and professionalism.

The delegate of *Sri Lanka* referred to the item 152 on the agenda of the Sixth Committee concerning Protection of International Personnel engaged in Peace Keeping operations. He observed that there were two drafts under considerations which deserved to be examined particularly in regard to the scope of the application of the proposed Convention. In his view, the applicability of a regime of individual criminal responsibility to the type of peace enforcement operations that were becoming common today was a crucial issue on which there was no common understanding. The other issue was the range of persons who should be covered, whether it should be confined to the "blue helmets" or whether it should even extend to NGO personnel and if so under what sort of safeguards should they have formal linkage to the United Nations. These two issues, were related to state responsibility and should be examined from the legal point of view. He was confident that the Sixth Committee and the AALCC could make a serious study before the next intersessional meeting on this subject was convened.

Mr. Hans Corell Legal Adviser of *Sweden* who is also the current Chairman of the Council of Europe, Committee of Legal Advisers on Public International Law, asked for the views of the Legal Advisers particularly from the NAM countries on the proposed Peace Conference in 1999 and the development of new instrument on Peaceful Settlement of disputes. These issues were discussed among the Legal Advisers in Europe.

The delegates of *Bangladesh* underscored the importance of exchange of

ideas between the AALCC Member States and the Council of Europe on Public International Law Matters.

The Legal Adviser of *Sweden* welcomed this suggestion and said that the basic purpose was to create collectivity among the legal advisers on important international legal issues.

II. The United Nations Decade of International Law

(i) Introduction

An item entitled "The United Nations Decade of International Law" was placed on the agenda of the Twenty-ninth Session of the Asian-African Legal Consultative Committee held in Beijing in 1990 following upon the adoption by the General Assembly of resolution 44/23 declaring the Decade of the Nineties as the United Nations Decade of International Law. The main objectives of the Decade are:

- (i) to promote acceptance of and respect for the principles of international law;
- (ii) to promote methods and means for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;
- (iii) to encourage the progressive development and codification of International Law; and
- (iv) to encourage the teaching, study, dissemination and wider appreciation of International Law.

Introducing the item at the twenty-ninth Session of the Committee the Secretary-General observed, *inter alia*, that it was appropriate that the Committee--a unique regional organization whose very *raison d'etre* is the progressive development and codification of international law--address itself to and respond to the resolution 44/23 of the General Assembly. The Committee at its twenty-ninth session after due consideration mandated the Secretariat to prepare a comprehensive study on the United Nations Decade of International Law. Subsequently, the Secretariat prepared and forwarded to the Office of the Legal Counsel of the United Nations its observations and

views on the Decade which were reproduced in the Report of the Secretary-General of the United Nations on the item "The United Nations Decade of International Law". At that session the Committee had also decided to include the item on the agenda of its thirtieth session. The item has thereafter been considered at each successive session of the Committee as well as at the meetings of the Legal Advisers of the Member States of the Committee.

Introducing the item at the thirty-first Session of the Committee held in Islamabad in 1992, the Assistant Secretary-General *inter alia* noted that the brief prepared by the Secretariat of the Committee endeavoured to furnish an overview of the numerous activities of the Committee since the matter was last discussed at the Committee's Thirtieth Session, with a view to preparing comments for transmission to the Office of the Legal Counsel of the United Nations. After due deliberations the Committee at its thirty-first Session resolved that the item should be placed on the agenda of the meeting of the Legal Advisers of Member States of the Committee during the Forty-seventh Session of the General Assembly in New York. In May 1992 the AALCC Secretariat transmitted to the Legal Counsel of the United Nations a report on the activities of the Committee relating to the objectives of the Decade and observations on the United Nations Decade of International Law.

The matter was thereafter discussed at the thirty-second Session of the Committee held in Kampala in 1993. Introducing the item the Assistant Secretary-General stated *inter alia* that General Assembly Resolution 46/53 had invited all international organizations to provide information on the activities that they had undertaken in the implementation of the objectives of the Decade, and that the AALCC Secretariat had accordingly furnished to the Office of the Legal Counsel of the United Nations some notes and comments in that regard. At that session the Committee reaffirmed the importance of strict adherence to the principles of international law as enshrined in the Charter of the United Nations and requested the Member States to continue to give serious attention to the observance and implementation of the Decade. The Committee accepted the offer of the Government of the State of Qatar to host an international conference under the auspices of the AALCC on the implementation of the principles of the new international law within the new international order and decided to place the item "United Nations Decade of International Law" on the agenda of its thirty-third session.

It may be recalled that the General Assembly by its resolution 47/32 entitled "U.N. Decade of International Law", adopted the programme of

activities to be commenced during the second term (1993-94) of the Decade. That resolution had *inter alia* invited all States and international organizations and institutions referred to in the programme to submit to the Secretary-General interim or final reports for transmission to the General Assembly at its forty-eighth Session or, at the latest, its forty-ninth session; and requested the Secretary-General to submit, on the basis of such information, a report to the General Assembly at its forty-eighth session on the implementation of the programme. The AALCC was among the international organizations which were requested to submit information on the implementation of the programme and views on possible activities for the next term of the Decade.

It may be recalled also that paragraph 3 of Section V of the "Programme for the activities for the second term (1993-94) of the United Nations Decade of International Law" as adopted by General Assembly Resolution 47/32 had directed the United Nations Secretariat to draw up a preliminary plan for a possible United Nations Congress on public international law, based on the proposal that the congress should be held in 1994 or 1995, and submit it to the Sixth Committee for consideration by general agreement at the forty-eighth Session of the General Assembly. Paragraph 7 of the aforementioned resolution called upon the Secretary-General to submit to the Assembly at its forty-eighth Session a report containing the above-mentioned plan. Pursuant to that request informal consultations were held with the members of the Sixth Committee on a draft preliminary operation plan for a possible United Nations Congress on public international law and a report thereon was submitted by the Secretary-General to the General Assembly at its forty-eighth session. The Report of the Secretary-General on a preliminary operational plan for a possible United Nations Congress on public international law has been given in the Section iii, "Secretariat Brief" of this chapter.

The AALCC Secretariat proposes during the year ahead, apart from making its contributions to the International conference on International Legal Issues Arising Under the United Nations Decade of International Law to be hosted by the State of Qatar in March 1994, to continue its modest endeavours to contribute to the attainment of the objectives of the United Nations Decade of International Law. It proposes to promote the acceptance of and respect for the principles of international law by undertaking an empirical survey of the ratification of key multilateral international conventions with a view to assisting Member States who have not already done so to accede to or ratify those conventions. Simultaneous with this endeavour the Secretariat proposes to undertake a study of the reservations, where applicable, which the Member States of the Committee may have with regard to these multilateral instruments. It may be stated in this regard that

the International Law Commission had at its Forty-fifth Session decided, subject to approval of the General Assembly, to include in its programme of work an item entitled "The Law and Practice Relating to Reservations to Treaties".

Thirty-third Session: Discussions

Introducing the item at the thirty-third session the *Secretary-General* said that the item entitled "The United Nations Decade of International Law" had been on the work programme of the Secretariat of the Asian-African Legal Consultative Committee since its twenty-ninth Session held in Beijing in 1990 and had thereafter been considered at successive sessions.

At its thirty-second Session held in Kampala (Uganda) in 1993 the Committee reaffirmed the importance of strict adherence to the principles of international law as enshrined in the Charter of the United Nations and requested the Member States to continue to give serious attention to the observance and implementation of the Decade. The Committee accepted the offer of the Government of the State of Qatar to host an International Conference, under the auspices of the AALCC, on the Implementation of the Principles of the New International Order.

Thereafter in pursuance of General Assembly Resolution 47/32 entitled the "United Nations Decade of International Law" which adopted the programme of activities during the second term i.e. 1993-94 of the Decade of International Law, the Secretariat of the AALCC forwarded to the office of the United Nations Legal Counsel its observations on the second term of the Decade.

The Secretary-General observed that the General Assembly Resolution 47/32 had directed the United Nations Secretariat to draw up a preliminary plan for a possible United Nations Congress on Public International Law based on the proposal that the Congress should be held in 1994 or 1995, and submit it to the Sixth Committee for consideration by general agreement at the Forty-eighth Session of the General Assembly. The Report of the UN Secretary-General on a preliminary operational plan for a possible United Nations Congress on International Law is also annexed to the Secretariat brief, which has been reproduced in this chapter. He stated that the Sixth Committee had recommended a Congress on Public International Law to be held in 1995.

The Secretary-General further stated that the Secretariat of the AALCC proposed, for the year ahead, apart from making its contribution to the International Conference on International Legal Issues Arising Under the

United Nations Decade of International Law to be hosted by the State of Qatar in March 1994, to continue its modest endeavours to contribute to the attainment of the objectives of the United Nations Decade of International Law. It was also proposed to promote the acceptance of and respect for the principles of international law by undertaking an empirical survey of the ratifications of key multilateral international conventions with a view to assisting Member States who had not already done so, to accede to or ratify those Conventions. Simultaneously with this endeavour the Secretariat proposed to undertake a study of the reservations, where applicable, which the Member States of the Committee might have with regard to these multilateral instruments. In this regard the International Law Commission had at its Forty-fifth Session decided, subject to approval of the General Assembly, to include in its programme of work an item entitled "the Law and Practice Relating to Reservations to Treaties".

The *Delegate of Japan* observed that in view of the new challenge arising from the end of the cold war the importance of observing the principles of International Law in order to establish a peaceful international community needed to be recognised. It was necessary that all members of the Committee shared the view of the importance of the Decade. The delegate stated that his Government had undertaken various activities for the promotion of understanding of International Law which included the invitation and preparation of this session of the Committee. These efforts were based on the belief that the activities of the Committee as an organ to provide legal assistance and make recommendations to participating States would help Asian and African countries to strengthen their ties in promoting the rule of law in Asia and Africa.

With regard to the promotion of means and methods for the peaceful settlement of disputes between States, which was one of the important pillars of the Decade of International Law, his delegation appreciated the initiative taken by the Secretary-General of the United Nations in establishing the Trust Fund to assist States in the settlement of disputes through the International Court of Justice. The Government of Japan had made a contribution of US \$ 25,000 for 1993.

He welcomed the decision of the General Assembly of the United Nations to convene a United Nations Congress on Public International Law in 1995. The chief purpose of the Congress should be the dissemination of international public law through free exchange of views among the various participants. Towards this end, it was desirable that, as far as possible, the Congress should be an informal one. In the view of his delegation the

Congress should not aim at producing a declaration or any other kind of formal or binding document. As for the specific timing of the Congress in 1995, his delegation supported the view that convening of the congress should be determined in such a way that maximum possible participation is assured with minimal cost involved.

The *Delegate of China* stated that according to the Programme of Activities for the Second Term annexed to the General Assembly resolution 47/32, there were still a lot of issues to be discussed and to be decided upon. One of the most important of these was the United Nations Congress on Public International Law, which was debated in the working group of the Sixth Committee General Assembly last year. His delegation believed that the Congress, which would mark the 50th Anniversary of the United Nations, would have a profound effect on strengthening the role of the United Nations and in promoting the development and dissemination of international law in the world, especially in the developing countries. Thus the congress itself would be a milestone in the history of the development of international law.

His delegation had noted that differences among countries on the agenda items of the Congress still existed and needed more time for further discussion and co-ordination. Without a properly negotiated agenda the significance of the Congress would be weakened. He further stated that government had always thought highly of and fully supported the activities of the United Nations Decade of International Law. His delegation would like to see the Decade concluded with tangible results in strengthening the role of International Law, world peace and security.

The *Representative of Sweden* stated that he would like to address two particular items under the heading "United Nations Decade of International Law". viz. regional cooperation and the United Nations Conference on International Law in 1995.

With regard to regional cooperation as a necessary phenomenon he stated that it was obvious that the United Nations could not deal with each and every matter that happened in the world and that there were many regional matters that were amply solved at the regional level and needed not to reach the level of the United Nations. But at the same time there were certainly many issues that did come on the agenda of the United Nations and it was increasingly important that those matters were studied at the regional level also and that sufficient preparation was made at that level in order to enhance the work of the United Nations. The AALCC was in his view an organization which underscored the importance of regional co-operation. He

observed that there were sub-regional groups within the AALCC, such as the South Asian Association for Regional Cooperation (SAARC).

He stated that the Council of Europe had for many years tried to harmonize the legislation in various fields. There were two Committees assisting the Member States of the Council of Europe in this respect. One of them dealt with criminal law matters, the other with private law matters. He added that the Committee for Legal Advisers on Public International Law (CAHDI) was established a few years ago and meets twice a year. The members of the CAHDI under the Council of Europe liked to see themselves as a professional and technical legal forum. The Committee dealt with matters of legal co-operation in the field of public law. One significant feature of the committee is that it has no general debate and confines itself strictly to legal matters, as general statements in that group would touch upon matters that would be of a political nature and belong to other fora, which is not within the mandate of CAHDI. The mandate of the CAHDI is to discuss matters of public international law and to advise the Committee of Ministers of the Council of Europe. This also means that it never adopt any resolutions although it may take a decision to order.

Among the matters which are discussed are co-ordination of positions on items on the agenda of the United Nations General Assembly. They also discuss matters on the agenda of the Conference on Security and Co-operation in Europe (CSCE). One item which has been on their agenda for the last meeting is what happens after the dissolution of the Soviet Union, the dissolution of Czechoslovakia, the dissolution of Yugoslavia?

In his view the kind of collegiality that a forum of this kind generated was important if there was a dispute between two Member States. It was perfectly legitimate for states to have disputes. In fact, the closer the contacts between two states, the more likely it is that a dispute might occur between them. The important thing is that this dispute is solved in a peaceful manner, be it by negotiations, arbitration or whatever. In situations of this kind the heads of the legal departments of the Ministries of Foreign Affairs are the persons most likely to deal with the dispute, if these persons are well acquainted, they are in a better position to represent their countries.

As regards the United Nations Congress on International Law to be held in 1995 he opined that it was important that careful study of the matters, would be taken up during the conference. It was important that one made ones views known to colleagues in other regions of the world.

The *Delegate of India* in his intervention emphasized the significance of

the topic and said that mutual interaction between international lawyers and co-operation at such fora as meetings of the Legal Advisers, the annual sessions of the AALCC etc. would promote the rule of law in international relations. In his view the functioning of the AALCC, the briefs prepared by the Secretariat of the Committee and its annual sessions contributed to the realization of the objectives of the UN Decade of International Law.

(ii) Decisions of the Thirty-third Session (1994)
**Agenda item: "The United Nations Decade
of International Law"**

Adopted on January, 21, 1994

The Asian-African Legal Consultative Committee at its Thirty-third Session:

Having taken note of the Report of the Secretary-General on the United Nations Decade of International Law contained in Doc. No. AALCC/XXXIII/Tokyo/94/9.

Reaffirms the importance of strict adherence to the principles of International Law as enshrined in the Charter of the United Nations;

Reiterates that many of the political, economic and social problems which riddle the Member States of the International Society can be resolved on the basis of the rule of law;

Welcomes the various initiatives taken by Member States of the Committee in the implementation and observance of the Decade;

1. *Requests* Member States to continue to give serious attention to the observance and implementation of the Decade;
2. *Requests* the Secretary-General to apprise the Secretary-General of the United Nations of the initiatives taken by the Committee in this regard;
3. *Decides* that the item be given serious attention and that it be placed